



Instructions for Firms Applying for Certification to Conduct Lead-Based Paint Activities

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IMPORTANT MAILING ADDRESSES

Mail application and a photocopy of fee payment to:	U.S. Environmental Protection Agency OPPTS (MC 74040T) LBP Activities Accred./Cert. Request 1200 Pennsylvania Avenue, NW Washington, DC 20460
Mail a check or money order for the fees to:	U.S. Environmental Protection Agency Washington Financial Management Center* Lead Program User Fees P.O. Box 360277M Pittsburgh, PA 15251

*This address does not accept applications or application materials; it accepts only fees.

FEES SCHEDULE

Description	Fee
Certification	\$540
Certification Renewal [every 3 years, see 40 CFR 745.226(f)(7) for details]	\$430
Multi-jurisdictional Certification Fee*	\$35 for each additional EPA-run jurisdiction**
Replacement Certificate	\$15

*Multi-jurisdictional certification applies to an applicant applying in more than one EPA-run jurisdiction.

**An EPA-run jurisdiction includes an EPA-run state, a U.S. territory, or all Indian tribal land(s) in any one EPA Region. (For current listing of EPA-run jurisdictions, see www.epa.gov/lead or call 1-800-424-LEAD.)

(A fee example is included on page 3 of this booklet.)

Paperwork Reduction Act Notice: The annual public burden for this collection of information is estimated to be 7.5 hours for firms, including the time needed for reading the instructions and completing the necessary information contained in this form. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden to: Director, Collection Strategies Division, Office of Environmental Information (OEI), U.S. Environmental Protection Agency (Mail Code 2822), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460. Include OMB number 2070-0155 in any correspondence. Do not send the completed form or requested information to this address. The actual information or form should be submitted in accordance with the instructions accompanying the form, or as specified in the corresponding regulations.

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Instructions for Firms Applying for Certification to Conduct Lead-Based Paint Activities

Firms must apply to the U.S. Environmental Protection Agency (EPA) to be certified or re-certified to perform or offer to perform lead-based paint activities in states, U.S. territories, and all Indian tribal land(s) in any one EPA Region where EPA implements the lead-based paint certification program. If EPA does not administer the certification program in an area where a firm wishes to work, the firm must apply directly to that state, territory, or Indian tribe for certification.

These instructions supplement EPA form 8500-27 (Rev 08/02), *Application for Firms to Conduct Lead-Based Paint Activities*. Please note that you must use a separate form for each application type.

HOW TO APPLY FOR INITIAL CERTIFICATION

To apply for certification as a firm, you must:

- Complete, sign, and date EPA form 8500-27 (Rev 08/02).
- Calculate the appropriate fee using the fees schedule listed on the inside front cover.
- Print “*Lead Program User Fees*” on the check or money order for the fee and mail it to the EPA address in Pittsburgh, PA listed on the inside front cover.
- Mail the completed application and a photocopy of the check or money order to the EPA Headquarters address in Washington, D.C. listed on the inside front cover.

HOW TO APPLY FOR RE-CERTIFICATION

Firms must be re-certified every three (3) years. To ensure that your firm will be re-certified before its current certification expires, you must submit a re-certification application no later than 90 days before the expiration date. If you apply after your certification expires, you must pay the full initial certification fee.

For re-certification, complete all sections of the application and follow the mailing instructions for the application and fee.

AMENDED APPLICATION

Amended applications must be sent to EPA Headquarters in Washington D.C. EPA will distribute the amended information to the appropriate Regional offices.

REPLACEMENT OF A CERTIFICATE

To replace a certificate, complete only sections A (General Information), B (Applicant Information), and E (Certification Statement) of the application and follow the mailing instructions for the application and fee.

FEES

The fee for applying for certification, re-certification, and other requests is listed on the inside front cover. It is important that you:

- Calculate fee based on the number of EPA-run jurisdiction(s) in which you plan to operate (the number of disciplines you select does not affect your fee).
- Write your total fee amount in section A of the application, even if you attach additional sheets of paper listing additional EPA-run jurisdictions.
- Make the check or money order payable to **U.S. Environmental Protection Agency**. Other methods of payment include wire transfer, electronic funds transfer, and, for government payers only, on-line payment agency collection (OPAC).
- Print “*Lead Program User Fees*” on your check or money order for the fee and mail it to the EPA address in Pittsburgh, PA listed on the inside front cover.

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(g) *Composite dust sampling.* Composite dust sampling may only be conducted in the situations specified in paragraphs (c) through (e) of this section. If such sampling is conducted, the following conditions shall apply:

- (1) Composite dust samples shall consist of at least two subsamples;
- (2) Every component that is being tested shall be included in the sampling; and
- (3) Composite dust samples shall not consist of subsamples from more than one type of component.

(h) *Determinations.* (1) Lead-based paint is present:

- (i) On any surface that is tested and found to contain lead equal to or in excess of 1.0 milligrams per square centimeter or equal to or in excess of 0.5% by weight; and
- (ii) On any surface like a surface tested in the same room equivalent that has a similar painting history and that is found to be lead-based paint.

(2) A paint-lead hazard is present:

- (i) On any friction surface that is subject to abrasion and where the lead dust levels on the nearest horizontal surface underneath the friction surface (e.g., the window sill or floor) are equal to or greater than the dust hazard levels identified in § 745.227(b);
- (ii) On any chewable lead-based paint surface on which there is evidence of teeth marks;
- (iii) Where there is any damaged or otherwise deteriorated lead-based paint on an impact surface that is caused by impact from a related building component (such as a door knob that knocks into a wall or a door that knocks against its door frame); and
- (iv) If there is any other deteriorated lead-based paint in any residential building or child-occupied facility or on the exterior of any residential building or child-occupied facility.

(3) A dust-lead hazard is present in a residential dwelling or child occupied facility:

- (i) In a residential dwelling on floors and interior window sills when the weighted arithmetic mean lead loading for all single surface or composite samples of floors and interior window sills are equal to or greater than 40 µg/ft² for floors and 250 µg/ft² for interior window sills, respectively;
- (ii) On floors or interior window sills in an unsampled residential dwelling in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled residential unit on the property; and
- (iii) On floors or interior window sills in an unsampled common area in a multi-family dwelling, if a dust-lead hazard is present on floors or interior window sills, respectively, in at least one sampled common area in the same common area group on the property.

(4) A soil-lead hazard is present:

- (i) In a play area when the soil-lead concentration from a composite play area sample of bare soil is equal to or greater than 400 parts per million; or
- (ii) In the rest of the yard when the arithmetic mean lead concentration from a composite sample (or arithmetic mean of composite samples) of bare soil from the rest of the yard (i.e., non-play areas) for each residential building on a property is equal to or greater than 1,200 parts per million.

(i) *Recordkeeping.* All reports or plans required in this section shall be maintained by the certified firm or individual who prepared the report for no fewer than 3 years. The certified firm or individual also shall provide copies of these reports to the building owner who contracted for its services.

- Include a photocopy of the check or money order with the application and send the application to the EPA Headquarters address in Washington, D.C. listed on the inside front cover.

FEE EXAMPLE

If your firm is applying for initial certification in two states and all Indian tribal land(s) in any one EPA Region, your firm is required to pay \$610:

Initial firm certification fee	\$ 540
One additional state fee*	\$ 35
All Indian tribes in one EPA Region fee*	<u>\$ 35</u>
Total Amount Due:	\$ 610

*Each certification request includes the fee for one EPA-run jurisdiction.

Detach and include this perforated fee payment stub with your fee payment:

Lead Program User Fees

Name of firm: _____

EPA-run jurisdiction(s): _____

Fee total (includes base fee and additional jurisdictions): _____

* If you need additional space, this stub may be copied.

EPA's Certification Fees Refund Policy

Firms having submitted an application and associated fees for certification or re-certification who wish to withdraw their application prior to Agency approval will receive a fee refund based upon the schedule listed below. **Firms who request a refund more than 10 days after the Agency receives the application will not receive a 100 percent refund.**

Number of Days Following Agency Receipt of Application	Percent Reimbursable (based upon total fees submitted)
up to 10 days	100%
11 to 60 days	75%
61 to 120 days	50%
121 or more days	25%

Note: Refunds will only be made after EPA verifies fee receipt and deposit by the U.S. Treasury.

Firms must notify the Agency in writing in order to qualify for a refund. The date of withdrawal is the date on which the Agency received the withdrawal notification.

EPA will not refund fees after granting a firm certification or re-certification. If your application is disapproved, EPA will not refund fees.

Refunds are not available for replacing a certificate.

For additional information, go to <http://www.epa.gov/lead>, call the application assistance Help Line at 1-800-424-LEAD, or see the applicable portion of 40 *Code of Federal Regulations* §745.226 and §745.227 (40 CFR §745.226 and §745.227), which is reprinted at the end of this booklet.

trough (if present) and one dust sample shall be taken from the floor of each room, hallway or stairwell selected. If there are less than four rooms, hallways or stairwells within the residential dwelling or child-occupied facility then all rooms, hallways or stairwells shall be sampled.

(C) Following an exterior paint abatement, a visible inspection shall be conducted. All horizontal surfaces in the outdoor living area closest to the abated surface shall be found to be cleaned of visible dust and debris. In addition, a visual inspection shall be conducted to determine the presence of paint chips on the dripline or next to the foundation below any exterior surface abated. If paint chips are present, they must be removed from the site and properly disposed of, according to all applicable Federal, State and local requirements.

(vi) The rooms, hallways or stairwells selected for sampling shall be selected according to documented methodologies.

(vii) The certified inspector or risk assessor shall compare the residual lead level (as determined by the laboratory analysis) from each single surface dust sample with clearance levels in paragraph (e)(8)(viii) of this section for lead in dust on floors, interior window sills, and window troughs or from each composite dust sample with the applicable clearance levels for lead in dust on floors, interior window sills, and window troughs divided by half the number of subsamples in the composite sample. If the residual lead level in a single surface dust sample equals or exceeds the applicable clearance level or if the residual lead level in a composite dust sample equals or exceeds the applicable clearance level divided by half the number of subsamples in the composite sample, the components represented by the failed sample shall be recleaned and retested.

(viii) The clearance levels for lead in dust are 40 µg/ft² for floors, 250 µg/ft² for interior window sills, and 400 µg/ft² for window troughs.

(9) In a multi-family dwelling with similarly constructed and maintained residential dwellings, random sampling for the purposes of clearance may be conducted provided:

(i) The certified individuals who abate or clean the residential dwellings do not know which residential dwelling will be selected for the random sample.

(ii) A sufficient number of residential dwellings are selected for dust sampling to provide a 95 percent level of confidence that no more than 5 percent or 50 of the residential dwellings (whichever is smaller) in the randomly sampled population exceed the appropriate clearance levels.

(iii) The randomly selected residential dwellings shall be sampled and evaluated for clearance according to the procedures found in paragraph (e)(8) of this section.

(10) An abatement report shall be prepared by a certified supervisor or project designer. The abatement report shall include the following information:

(i) Start and completion dates of abatement.

(ii) The name and address of each certified firm conducting the abatement and the name of each supervisor assigned to the abatement project.

(iii) The occupant protection plan prepared pursuant to paragraph (e)(5) of this section.

(iv) The name, address, and signature of each certified risk assessor or inspector conducting clearance sampling and the date of clearance testing.

(v) The results of clearance testing and all soil analyses (if applicable) and the name of each recognized laboratory that conducted the analyses.

(vi) A detailed written description of the abatement, including abatement methods used, locations of rooms and/or components where abatement occurred, reason for selecting particular abatement methods for each component, and any suggested monitoring of encapsulants or enclosures.

(f) *Collection and laboratory analysis of samples.* Any paint chip, dust, or soil samples collected pursuant to the work practice standards contained in this section shall be:

(1) Collected by persons certified by EPA as an inspector or risk assessor; and

(2) Analyzed by a laboratory recognized by EPA pursuant to section 405(b) of TSCA as being capable of performing analyses for lead compounds in paint chip, dust, and soil samples.

For additional information, go to <http://www.epa.gov/lead>, call the application assistance Help Line at 1-800-424-LEAD, or see the applicable portion of 40 *Code of Federal Regulations* §745.226 and §745.227 (40 CFR §745.226 and §745.227), which is reprinted at the end of this booklet.

(5) A written occupant protection plan shall be developed for all abatement projects and shall be prepared according to the following procedures:

(i) The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and be developed prior to the abatement. The occupant protection plan shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.

(ii) A certified supervisor or project designer shall prepare the occupant protection plan.

(6) The work practices listed below shall be restricted during an abatement as follows:

(i) Open-flame burning or torching of lead-based paint is prohibited;

(ii) Machine sanding or grinding or abrasive blasting or sandblasting lead-based paint is prohibited unless used with High Efficiency Particulate Air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency;

(iii) Dry scraping of lead-based paint is permitted only in conjunction with heat guns or around electrical outlets or when treating defective paint spots totaling no more than 2 square feet in any one room, hallway or stairwell or totaling no more than 20 square feet on exterior surfaces; and

(iv) Operating a heat gun on lead-based paint is permitted only at temperatures below 1100 degrees Fahrenheit.

(7) If conducted, soil abatement shall be conducted in one of the following ways:

(i) If the soil is removed:

(A) The soil shall be replaced by soil with a lead concentration as close to local background as practicable, but no greater than 400 ppm.

(B) The soil that is removed shall not be used as top soil at another residential property or child-occupied facility.

(ii) If soil is not removed, the soil shall be permanently covered, as defined in § 745.223.

(8) The following post-abatement clearance procedures shall be performed only by a certified inspector or risk assessor:

(i) Following an abatement, a visual inspection shall be performed to determine if deteriorated painted surfaces and/or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, these conditions must be eliminated prior to the continuation of the clearance procedures.

(ii) Following the visual inspection and any post-abatement cleanup required by paragraph (e)(8)(i) of this section, clearance sampling for lead in dust shall be conducted. Clearance sampling may be conducted by employing single-surface sampling or composite sampling techniques.

(iii) Dust samples for clearance purposes shall be taken using documented methodologies that incorporate adequate quality control procedures.

(iv) Dust samples for clearance purposes shall be taken a minimum of 1 hour after completion of final post-abatement cleanup activities.

(v) The following post-abatement clearance activities shall be conducted as appropriate based upon the extent or manner of abatement activities conducted in or to the residential dwelling or child-occupied facility:

(A) After conducting an abatement with containment between abated and unabated areas, one dust sample shall be taken from one interior window sill and from one window trough (if present) and one dust sample shall be taken from the floors of each of no less than four rooms, hallways or stairwells within the containment area. In addition, one dust sample shall be taken from the floor outside the containment area. If there are less than four rooms, hallways or stairwells within the containment area, then all rooms, hallways or stairwells shall be sampled.

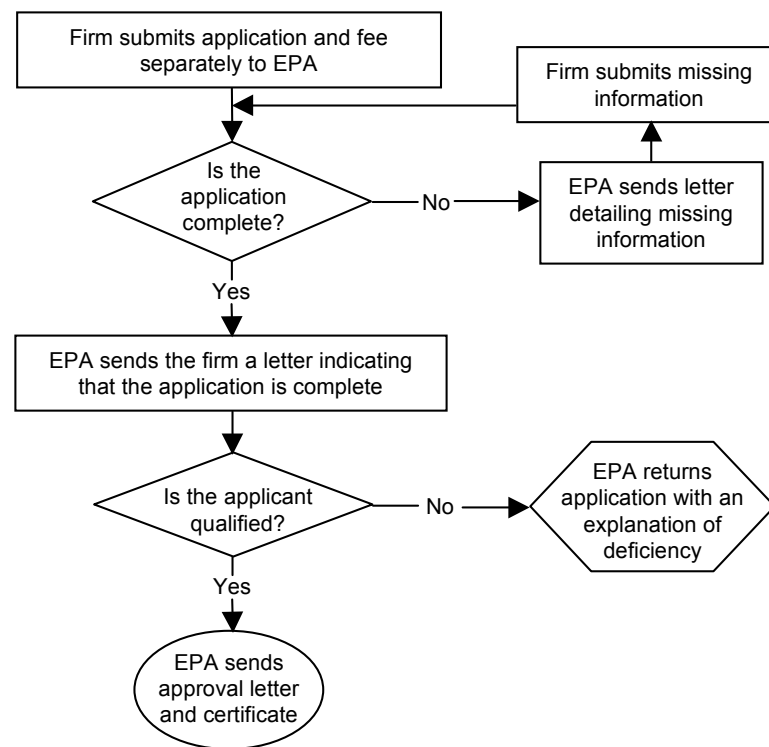
(B) After conducting an abatement with no containment, two dust samples shall be taken from each of no less than four rooms, hallways or stairwells in the residential dwelling or child-occupied facility. One dust sample shall be taken from one interior window sill and window

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APPLICATION PROCESS

EPA processes applications on a first-come, first-served basis. The following flowchart depicts the application process for firm certification. EPA has up to 90 days after receiving a complete request for certification to approve or disapprove the application.

APPLICATION PROCESS FOR FIRM CERTIFICATION



For additional information, go to <http://www.epa.gov/lead>, call the application assistance Help Line at 1-800-424-LEAD, or see the applicable portion of 40 *Code of Federal Regulations* §745.226 and §745.227 (40 CFR §745.226 and §745.227), which is reprinted at the end of this booklet.

FIRMS COMPLETING APPLICATIONS FOR INDIVIDUALS

If the firm is assisting in completing applications for individuals who are applying for certification, please be aware of the following:

- Individual must have an address and phone number different from the firm's.
- Individual must sign and date the application.
- Individual's name, social security number, and discipline should appear on the front of the application fee payment (check or money order), even if it is hand-written, if the firm pays for the individual.
- EPA forwards all correspondence to individuals who have signed the application attesting to their willingness to comply with the work practice standards found at 40 CFR §745.227.
- EPA forwards copies of the individual's approval letter and certificate to the firm upon written request of the applicant; however, the approval letter, identification badge, and certificate remain the property of the individual.

INCOMPLETE APPLICATION

If your application is incomplete, EPA will not process your application. If any components of your application are missing, your application will become inactive for a period not to exceed 30 days until the application is made complete. If you do not complete your application, EPA will return the application package. You may apply again with a complete package. Please call 1-800-424-LEAD to see if your application is complete.

- (i) Exterior play areas where bare soil is present; and
- (ii) The rest of the yard (i.e., non-play areas) where bare soil is present.
- (iii) Dripline/foundation areas where bare soil is present.
- (9) Any paint, dust, or soil sampling or testing shall be conducted using documented methodologies that incorporate adequate quality control procedures.
- (10) Any collected paint chip, dust, or soil samples shall be analyzed according to paragraph (f) of this section to determine if they contain detectable levels of lead that can be quantified numerically.
- (11) The certified risk assessor shall prepare a risk assessment report which shall include the following information:
 - (i) Date of assessment.
 - (ii) Address of each building.
 - (iii) Date of construction of buildings.
 - (iv) Apartment number (if applicable).
 - (v) Name, address, and telephone number of each owner of each building.
 - (vi) Name, signature, and certification of the certified risk assessor conducting the assessment.
 - (vii) Name, address, and telephone number of the certified firm employing each certified risk assessor if applicable.
 - (viii) Name, address, and telephone number of each recognized laboratory conducting analysis of collected samples.
 - (ix) Results of the visual inspection.
 - (x) Testing method and sampling procedure for paint analysis employed.
 - (xi) Specific locations of each painted component tested for the presence of lead.
 - (xii) All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF device.
 - (xiii) All results of laboratory analysis on collected paint, soil, and dust samples.
 - (xiv) Any other sampling results.
 - (xv) Any background information collected pursuant to paragraph (d)(3) of this section.
 - (xvi) To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint, or other assessments of lead-based paint-related hazards.
 - (xvii) A description of the location, type, and severity of identified lead-based paint hazards and any other potential lead hazards.
 - (xviii) A description of interim controls and/or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.
- (e) *Abatement.* (1) An abatement shall be conducted only by an individual certified by EPA, and if conducted, shall be conducted according to the procedures in this paragraph.
- (2) A certified supervisor is required for each abatement project and shall be onsite during all work site preparation and during the post-abatement cleanup of work areas. At all other times when abatement activities are being conducted, the certified supervisor shall be onsite or available by telephone, pager or answering service, and able to be present at the work site in no more than 2 hours.
- (3) The certified supervisor and the certified firm employing that supervisor shall ensure that all abatement activities are conducted according to the requirements of this section and all other Federal, State and local requirements.
- (4) Notification of the commencement of lead-based paint abatement activities in a residential dwelling or child-occupied facility or as a result of a Federal, State, or local order shall be given to EPA prior to the commencement of abatement activities. The procedure for this notification will be developed by EPA prior to August 31, 1998.

composite dust samples from common areas where one or more children, age 6 and under, are most likely to come into contact with dust.

(3) Dust samples shall be collected and analyzed in the following manner:

(i) All dust samples shall be taken using documented methodologies that incorporate adequate quality control procedures.

(ii) All collected dust samples shall be analyzed according to paragraph (f) of this section to determine if they contain detectable levels of lead that can be quantified numerically.

(4) Paint shall be sampled in the following manner: (i) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies which incorporate adequate quality control procedures; and/or

(ii) All collected paint chip samples shall be analyzed according to paragraph (f) of this section to determine if they contain detectable levels of lead that can be quantified numerically.

(5) The risk assessor shall prepare a lead hazard screen report, which shall include the following information:

(i) The information required in a risk assessment report as specified in paragraph (d) of this section, including paragraphs (d)(11)(i) through (d)(11)(xiv), and excluding paragraphs (d)(11)(xv) through (d)(11)(xviii) of this section. Additionally, any background information collected pursuant to paragraph (c)(2)(i) of this section shall be included in the risk assessment report; and

(ii) Recommendations, if warranted, for a follow-up risk assessment, and as appropriate, any further actions.

(d) *Risk assessment.* (1) A risk assessment shall be conducted only by a person certified by EPA as a risk assessor and, if conducted, must be conducted according to the procedures in this paragraph.

(2) A visual inspection for risk assessment of the residential dwelling or child-occupied facility shall be undertaken to locate the existence of deteriorated paint, assess the extent and causes of the deterioration, and other potential lead-based paint hazards.

(3) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age 6 years and under shall be collected.

(4) The following surfaces which are determined, using documented methodologies, to have a distinct painting history, shall be tested for the presence of lead:

(i) Each friction surface or impact surface with visibly deteriorated paint; and

(ii) All other surfaces with visibly deteriorated paint.

(5) In residential dwellings, dust samples (either composite or single-surface samples) from the interior window sill(s) and floor shall be collected and analyzed for lead concentration in all living areas where one or more children, age 6 and under, are most likely to come into contact with dust.

(6) For multi-family dwellings and child-occupied facilities, the samples required in paragraph (d)(4) of this section shall be taken. In addition, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentration in the following locations:

(i) Common areas adjacent to the sampled residential dwelling or child-occupied facility; and

(ii) Other common areas in the building where the risk assessor determines that one or more children, age 6 and under, are likely to come into contact with dust.

(7) For child-occupied facilities, interior window sill and floor dust samples (either composite or single-surface samples) shall be collected and analyzed for lead concentration in each room, hallway or stairwell utilized by one or more children, age 6 and under, and in other common areas in the child-occupied facility where one or more children, age 6 and under, are likely to come into contact with dust.

(8) Soil samples shall be collected and analyzed for lead concentrations in the following locations:

For additional information, go to <http://www.epa.gov/lead>, call the application assistance Help Line at 1-800-424-LEAD, or see the applicable portion of 40 *Code of Federal Regulations* §745.226 and §745.227 (40 CFR §745.226 and §745.227), which is reprinted at the end of this booklet.

40 CFR Part 745

Lead; Lead-Based Paint Poisoning Prevention in Certain Residential Structures

§ 745.226 Certification of individuals and firms engaged in lead-based paint activities: target housing and child-occupied facilities.

(f) *Certification of firms.* (1) All firms which perform or offer to perform any of the lead-based paint activities described in § 745.227 after March 1, 2000, shall be certified by EPA.

(2) A firm seeking certification shall submit to EPA a letter attesting that the firm shall only employ appropriately certified employees to conduct lead-based paint activities, and that the firm and its employees shall follow the work practice standards in § 745.227 for conducting lead-based paint activities.

(3) From the date of receiving the firm's letter requesting certification, EPA shall have 90 days to approve or disapprove the firm's request for certification. Within that time, EPA shall respond with either a certificate of approval or a letter describing the reasons for a disapproval.

(4) The firm shall maintain all records pursuant to the requirements in § 745.227.

(5) Firms may first apply to EPA for certification to engage in lead-based paint activities pursuant to this section on or after March 1, 1999.

(6) Firms applying for certification must submit the appropriate fees in accordance with § 745.238.

(7) To maintain certification a firm shall submit appropriate fees in accordance with § 745.238 every 3 years.

(h) *Suspension, revocation, and modification of certifications of firms engaged in lead-based paint activities.* (1) EPA may, after notice and opportunity for hearing, suspend, revoke, or modify a firm's certification if a firm has:

(i) Performed work requiring certification at a job site with individuals who are not certified.

(ii) Failed to comply with the work practice standards established in § 745.227.

(iii) Misrepresented facts in its letter of application for certification to EPA.

(iv) Failed to maintain required records.

(v) Failed to comply with Federal, State, or local lead-based paint statutes or regulations.

(2) In addition to an administrative or judicial finding of violation, for purposes of this section only, execution of a consent agreement in settlement of an enforcement action constitutes evidence of a failure to comply with relevant statutes or regulations.

(i) *Procedures for suspension, revocation, or modification of the certification of individuals or firms.*

(1) If EPA decides to suspend, revoke, or modify the certification of any individual or firm, it shall notify the affected entity in writing of the following:

(i) The legal and factual basis for the suspension, revocation, or modification.

(ii) The commencement date and duration of the suspension, revocation, or modification.

(iii) Actions, if any, which the affected entity may take to avoid suspension, revocation, or modification or to receive certification in the future.

(iv) The opportunity and method for requesting a hearing prior to final EPA action to suspend, revoke, or modify certification.

(v) Any additional information, as appropriate, which EPA may provide.

(2) If a hearing is requested by the certified individual or firm, EPA shall:

(i) Provide the affected entity an opportunity to offer written statements in response to EPA's assertion of the legal and factual basis and any other explanations, comments, and arguments it deems relevant to the proposed action.

For additional information, go to <http://www.epa.gov/lead>, call the application assistance Help Line at 1-800-424-LEAD, or see the applicable portion of 40 *Code of Federal Regulations* §745.226 and §745.227 (40 CFR §745.226 and §745.227), which is reprinted at the end of this booklet.

- (ii) Provide the affected entity such other procedural opportunities as EPA may deem appropriate to ensure a fair and impartial hearing.
- (iii) Appoint an official of EPA as Presiding Officer to conduct the hearing. No person shall serve as Presiding Officer if he or she has had any prior connection with the specific matter.
- (3) The Presiding Officer shall:
 - (i) Conduct a fair, orderly, and impartial hearing within 90 days of the request for a hearing;
 - (ii) Consider all relevant evidence, explanation, comment, and argument submitted; and
 - (iii) Notify the affected entity in writing within 90 days of completion of the hearing of his or her decision and order. Such an order is a final EPA action subject to judicial review.
- (4) If EPA determines that the public health, interest, or welfare warrants immediate action to suspend the certification of any individual or firm prior to the opportunity for a hearing, it shall:
 - (i) Notify the affected entity of its intent to immediately suspend certification for the reasons listed in paragraph (h)(1) of this section. If a suspension, revocation, or modification notice has not previously been issued, it shall be issued at the same time the immediate suspension notice is issued.
 - (ii) Notify the affected entity in writing of the grounds upon which the immediate suspension is based and why it is necessary to suspend the entity's accreditation before an opportunity for a hearing to suspend, revoke, or modify the individual's or firm's certification.
 - (iii) Notify the affected entity of the commencement date and duration of the immediate suspension.
 - (iv) Notify the affected entity of its right to request a hearing on the immediate suspension within 15 days of the suspension taking place and the procedures for the conduct of such a hearing.
- (5) Any notice, decision, or order issued by EPA under this section, transcript or other verbatim record of oral testimony, and any documents filed by a certified individual or firm in a hearing under this section shall be available to the public, except as otherwise provided by section 14 of TSCA or by part 2 of this title. Any such hearing at which oral testimony is presented shall be open to the public, except that the Presiding Officer may exclude the public to the extent necessary to allow presentation of information which may be entitled to confidential treatment under section 14 of TSCA or part 2 of this title.

§ 745.227 Work practice standards for conducting lead-based paint activities: target housing and child-occupied facilities.

- (a) *Effective date, applicability, and terms.* (1) Beginning on March 1, 2000, all lead-based paint activities shall be performed pursuant to the work practice standards contained in this section.
- (2) When performing any lead-based paint activity described by the certified individual as an inspection, lead-hazard screen, risk assessment or abatement, a certified individual must perform that activity in compliance with the appropriate requirements below.
- (3) Documented methodologies that are appropriate for this section are found in the following: The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing; the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead-Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474-R-95-001); Regulations, guidance, methods or protocols issued by States and Indian Tribes that have been authorized by EPA; and other equivalent methods and guidelines.
- (4) Clearance levels are appropriate for the purposes of this section may be found in the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust, and Lead Contaminated Soil or other equivalent guidelines.

For additional information, go to <http://www.epa.gov/lead>, call the application assistance Help Line at 1-800-424-LEAD, or see the applicable portion of 40 *Code of Federal Regulations* §745.226 and §745.227 (40 CFR §745.226 and §745.227), which is reprinted at the end of this booklet.

- (b) *Inspection.* (1) An inspection shall be conducted only by a person certified by EPA as an inspector or risk assessor and, if conducted, must be conducted according to the procedures in this paragraph.
- (2) When conducting an inspection, the following locations shall be selected according to documented methodologies and tested for the presence of lead-based paint:
 - (i) In a residential dwelling and child-occupied facility, each component with a distinct painting history and each exterior component with a distinct painting history shall be tested for lead-based paint, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint; and
 - (ii) In a multi-family dwelling or child-occupied facility, each component with a distinct painting history in every common area, except those components that the inspector or risk assessor determines to have been replaced after 1978, or to not contain lead-based paint.
- (3) Paint shall be sampled in the following manner: (i) The analysis of paint to determine the presence of lead shall be conducted using documented methodologies which incorporate adequate quality control procedures; and/or
 - (ii) All collected paint chip samples shall be analyzed according to paragraph (f) of this section to determine if they contain detectable levels of lead that can be quantified numerically.
- (4) The certified inspector or risk assessor shall prepare an inspection report which shall include the following information:
 - (i) Date of each inspection.
 - (ii) Address of building.
 - (iii) Date of construction.
 - (iv) Apartment numbers (if applicable).
 - (v) Name, address, and telephone number of the owner or owners of each residential dwelling or child-occupied facility.
 - (vi) Name, signature, and certification number of each certified inspector and/or risk assessor conducting testing.
 - (vii) Name, address, and telephone number of the certified firm employing each inspector and/or risk assessor, if applicable.
 - (viii) Each testing method and device and/or sampling procedure employed for paint analysis, including quality control data and, if used, the serial number of any x-ray fluorescence (XRF) device.
 - (ix) Specific locations of each painted component tested for the presence of lead-based paint.
 - (x) The results of the inspection expressed in terms appropriate to the sampling method used.
- (c) *Lead hazard screen.* (1) A lead hazard screen shall be conducted only by a person certified by EPA as a risk assessor.
 - (2) If conducted, a lead hazard screen shall be conducted as follows:
 - (i) Background information regarding the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children age 6 years and under shall be collected.
 - (ii) A visual inspection of the residential dwelling or child-occupied facility shall be conducted to:
 - (A) Determine if any deteriorated paint is present, and
 - (B) Locate at least two dust sampling locations.
 - (iii) If deteriorated paint is present, each surface with deteriorated paint, which is determined, using documented methodologies, to be in poor condition and to have a distinct painting history, shall be tested for the presence of lead.
 - (iv) In residential dwellings, two composite dust samples shall be collected, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children, age 6 and under, are most likely to come in contact with dust.
 - (v) In multi-family dwellings and child-occupied facilities, in addition to the floor and window samples required in paragraph (c)(1)(iii) of this section, the risk assessor shall also collect

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